IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2313 of 2000

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AMC NIVRUT KARMACHARI SANGH THRO' GENERAL SECRETARY

Versus

GOVERNMENT OF GUJARAT THRO' SECRETARY

Appearance:

1. Special Civil Application No. 2313 of 2000

MR GT PARIKH for Petitioners

MR DIPEN DESAI AGP for Respondent No. 1

MR MG NAGARKAR for Respondent No. 2

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 06/08/2004

ORAL JUDGEMENT

Heard the learned advocates.

The petitioners are the association of the retired employees of the respondent-Ahmedabad Municipal Corporation [hereinafter referred to as, `the Corporation'] and one of its members.

This petition brings forth grievance of the employees of the Corporation who have retired from service prior to 1st January, 1983. The Corporation introduced a pension scheme on 10th June, 1983 for its employees effective from 1st January, 1983. The employees who retire from service of the Corporation on 1st January, 1983 or thereafter are given the benefit of the said pension scheme. The petitioners who had retired prior to 1st January, 1983 were deprived of the said benefit. The petitioners, therefore, filed Special Civil Application No. 4028 of 1988 and claimed identical benefit. The said petition came to be allowed by the learned Single Judge. However, the claim made by the petitioners came to be rejected by the judgment and order dated 14th October, 1997 passed in Letters Patent Appeal No. 24 of 1996 [Coram : Hon'ble Messr. Justice C.K Thakkar, J. as he then was & S.D Pandit, J]. The said judgment was challenged before the Hon'ble Supreme Court in Special Leave Petition [Civil] No. 6847 of 1998 which came to be dismissed on 17th April, 1998.

Now, the petitioners have come with a fresh round of litigation. It is the claim of the petitioners that the Fifth Central Pay Commission has recommended some ex gratia payment. The Life Insurance Corporation of India has also accepted the said recommendation and has granted D.A linked ex gratia payment to its retired employees. The petitioners have, therefore, prayed that the CPF retirees of the Corporation be paid ex gratia amount, as recommended by the Fifth Central Pay Commission.

The petition is wholly misconceived. First; such recommendation made by the Fifth Central Pay Commission, if any, is not placed on record before this Court. Even if such recommendation is made, the same shall not automatically apply to the retired employees of the Corporation. Admittedly, the Corporation has not adopted any scheme whereunder the petitioners shall be entitled to receive ex gratia payment as claimed by them. The reliance placed on the scheme adopted by the Life Insurance Corporation of India or the Banks, as stated by the learned advocate Mr. Parikh, is irrelevant. The Corporation cannot be compelled to make such payment because some other organizations have extended such

benefit to its CPF retired employees.

No other claim is made in this petition. The petition is dismissed. Rule is discharged. The parties shall bear their own costs.

I am at pain to note that the petitioners, though have lost their claim before this Court and also before the Hon'ble Supreme Court, keep agitating the issue. I do believe that the pensioners deserve to be spared of the cost and anxiety of unnecessary/avoidable litigation. The petitioners and the learned advocates shall desist from lodging such fruitless claims.

{Miss R.M Doshit, J.}

Prakash*